

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

In the outstanding final Office Action of July 18, 2008, the Examiner asserted that claims 8-20 were rejected under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter. Applicant traverses the rejection for the reasons set forth below.

With regard to claims 8-20 of the present application, the Examiner continues to maintain that:

Regarding claim 8, recites a device but it appears reasonable to interpret this device by one of ordinary skill in the art as software, per se. Applicant's specification provides no explicit and deliberate definition of the components such as consumer application, provider application and applicant interworking framework that make up the device other than they are software components, which are directed to functional descriptive material, per se, and are therefore nonstatutory.

Applicant's responses dating back to May 14, 2007 repeatedly presented arguments indicating that, contrary to the Examiner's assertions, the subject matter recited in claims 8-20 of the present application are statutory in light of 35 U.S.C. § 101. In the July 24, 2007 Final Office Action, the Examiner again rejected claims 8-20 under 35 U.S.C. § 101, maintaining that the subject matter recited therein is nonstatutory, without answering and/or rebutting any of Applicant's previous arguments. In response to the July 24, 2007 Final Office Action, Applicant submitted a Pre-Appeal Brief Request for Review on October 24, 2007 again discussing at length why claims 8-20 of the present application recite statutory subject. Applicant was informed on November 30, 2007 that prosecution would be reopened and a new Office Action would be issued. However, claims 8-20 were again rejected under 35 U.S.C. § 101 in the January 24, 2008 non-final Office Action, where once again, the Examiner failed to respond substantively to any of Applicant's arguments regarding this rejection. Furthermore, in Applicant's April 24, 2008 Reply, Applicant indicated the Examiner's failure to respond to Applicant's arguments regarding this rejection. In the

outstanding Office Action, the Examiner responded solely to an alternative argument presented by Applicant as to why claims 8-20 are statutory, while completely ignoring Applicant's previously presented arguments and the majority of Applicant's latest arguments in the April 24, 2008 Reply, and still issuing a final Office Action.

Yet again, and in light of the Examiner's repeated rejection of claims 8-20 under 35 U.S.C. §101, Applicant directs the Examiner to Section 707.07(f) of the MPEP which states that "[W]here the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it." (emphasis added). In this instance, although the Examiner maintained his rejection, he failed to substantially answer or rebut Applicant's arguments or further provide evidence to support his position that claims 8-20 of the present application recite nonstatutory subject matter. Therefore, Applicant respectfully submits that the outstanding final Official Action, as well as the previous non-final Office Action of January 24, 2008 are improper with respect to claims 8-20 in that it is unresponsive to Applicant's arguments and in violation of Section 707(f) of the MPEP.

Additionally, Applicant incorporates herein by reference in their entirety those arguments directed to claims 8-20 filed in Applicant's previous response of May 14, 2007 at pages 2-4, in Applicant's previous Pre-Appeal Brief Request for Review of October 24, 2007 at pages 1-3, and in Applicant's Reply of April 24, 2008 at pages 2-3. That is, the present application is replete with references to menu service interfaces, user interfaces (UI), menu items, phones, etc. upon which the various embodiments described in the present application can be implemented. (See, e.g., Figures. 2 and 5, Para. [0004], [0030], [0038], [0040], [0044], [0046], and [0061] of the present application). Therefore, it should be abundantly clear that the methods described in claims 1-20 are not software per se, and therefore, contrary to the Examiner's assertions, do meet the statutory requirement(s) of 35 U.S.C. §101. Moreover, Applicant submits that the processes described in, e.g., claims 8-20 of the present application are "acts" that are being performed. Applicant is at a loss to how any other characterization can be given to a method, other than acts that are performed.

Additionally and for example, independent claim 8 is directed to “a device” that comprises, e.g., a consumer application, at least one provider application, and an application interworking framework. The Examiner’s position that claims 21-23 of the present application (which recite a computer program product, embodied on a computer-readable medium), are statutory is telling. That is, Applicant submits that the Examiner has already admitted that the consumer and provider applications as well as the application interworking framework are “functional descriptive material.” (*See, e.g.*, page 8 of the outstanding Office Action). However, it appears that the Examiner’s interpretation of Section 2106.01 of the MPEP is flawed. That is, the Examiner asserted at page 8 of the outstanding Office Action that:

Applicant’s specification provides... consumer application, provider application and application interworking framework that make up the device... which are directed to functional descriptive material, per se, and are therefore non-statutory.

It appears that the Examiner’s position is that “functional descriptive material” is “per se non-statutory” because the Examiner has interpreted the claimed applications/framework as being descriptive material. However, Section 2106.01 of the MPEP does not support such an interpretation. That is, Section 2106.01 of the MPEP indicates the following:

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works, and a compilation or mere arrangement of data.

Both types of "descriptive material" are nonstatutory when claimed as descriptive material *per se*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare

*In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)(discussing patentable weight of data structure limitations in the context of a statutory claim to a data structure stored on a computer readable medium that increases computer efficiency) and *In re Warmerdam*, 33 F.3d 1354, 1360-61, 31 USPQ2d 1754, 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). (emphasis added).

In other words, the MPEP is clear in that determining whether or not descriptive material (both non-functional and functional) is based upon “how” that descriptive material is claimed. That is, functional descriptive material can be both statutory and non-statutory depending upon whether or not that descriptive material is claimed as descriptive material *per se*. The MPEP does not in any suggest that once subject matter is deemed to be descriptive material, it is automatically non-statutory.

In light of the above, the MPEP, quite contrary to the Examiner’s position, indicates that functional descriptive material, when recorded on computer readable medium, becomes statutory. In this instance, Applicant has repeatedly presented arguments and evidence that clearly suggest that the claimed limitations of claims 8-20 directed to, e.g., consumer applications, provider applications, and application interworking frameworks, are recorded on computer readable medium/implemented on some physical device/hardware. Claim 8 for example is clearly directed to a device, where the device comprises such applications and frameworks. Contrary to the Examiner’s assertions at page 3 of the outstanding Office Action, Applicant submits that a device comprising such applications and/or frameworks suggests that such applications and/or frameworks are realized on some type of computer readable medium/hardware. Because the Examiner has already admitted that the limitations at issue are “functional descriptive material” and because the MPEP is clear in that functional descriptive material when, e.g., structurally/functional interrelated to, e.g., some computer readable medium, claims 8-20 of the present application are directed to statutory subject matter per the requirements of 35 U.S.C. § 101.

Further still, Applicant previously submitted that even if the claimed subject matter of, e.g., claims 8-20 could be characterized as software *per se*, the subject matter is not

automatically deemed to be non-statutory subject matter because they recite methods that produce concrete, tangible, useful results in accordance with *State Street Bank & Trust v. Signature Financial Group, Inc.* 149 F.3d 1368, 47 USPQ2d 1569 (Fed. Cir. 1998). This mention of the State Street decision was presented in Applicant's May 14, 2007 Reply in response to the Examiner's assertions at page 4 of the March 12, 2007 Office Action that claim 8-16 allegedly raised questions as to whether a concrete, useful, and tangible result was produced. In the July 24, 2007 final Office Action, the Examiner maintained the rejection of claims 1-20 under 35 U.S.C. § 101 without addressing whether Applicant's arguments regarding the production of a concrete, useful, tangible result were persuasive. Thus, Applicant re-asserted the argument at page 3 of Applicant's Pre-Appeal Brief Request of October 24, 2007. In the January 24, 2008 Office Action, Applicant again was unaware whether or not the Examiner was persuaded by Applicant's arguments regarding the concrete, useful, tangible result, and hence, again made mention of that argument which references the State Street decision in Applicant's April 24, 2008 Reply. Therefore, contrary to the Examiner's assertions at page 3 of the outstanding Office Action, the Examiner did in fact make assertions alluding to producing a concrete, tangible, useful result as forming at least a part of a basis for statutory subject matter. (*See, e.g.*, page 4 of the March 12, 2007 Office Action).

Lastly, Applicant notes with interest that at page 7 of the outstanding Office Action, the Examiner indicated the following:

Every application stored in a device is considered as integrated into the device because it is part of the device. In this case, UI 41 is part of the device and therefore it must be integrated into the device with other software applications of the device.

That is, the Examiner appears to be admitting that Applicant's characterization of at least the statutory aspect of claims 8-20 as described above is correct, i.e., an application, if associated with a device is integrated thereon, and not merely some piece of abstract software.<sup>1</sup>

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<sup>1</sup> It should be noted that Applicant is in no way suggesting that the Examiner's assertion is valid for the purpose with which the Examiner made the assertion. That is, Applicant is not admitting that Hayton et al.

Claims 1-3 and 5-23 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 7,194,743 (Hayton et al.) Applicant traverse the rejection for the reasons set forth below.

With regard to independent claims 1, 8, and 17 of the present application, the Examiner asserted that Hayton et al. teaches all of the required limitations recited therein. Applicant disagrees. Additionally and at page 3 of the outstanding Office Action, the Examiner asserted that one of ordinary skill in the art would recognize that UI elements are features/components/properties/content as allegedly evidenced by the providing of “features or functionalities to the UI application 42 such as ‘Albert the Boss’, ‘Bert the manager’, ‘Cathy the underling’, ‘Current Salary’, ‘Employee’, etc.” In particular, Applicant submits that Hayton et al. fails to teach or suggest providing a feature to a consumer application, requesting a feature matching a consumer interest from an application interworking framework, and/or a provider application where an interface is provided for the provider application and a consumer application such that a feature interest is matched with a feature from the provider application. Moreover, the Examiner’s reliance on examples of content/objects that would be displayed in an application is misplaced.

Hayton et al. is directed to a system and method of providing, e.g., remote access to an application. That is, Hayton et al. teaches providing a user-interface (UI) portion of an application to either the same machine on which the application is executing, or on another machine remote from the machine executing the application. (*See, e.g.*, Abstract and Column 2, lines 44-52). A user that is, e.g., customizing a UI 42, such as a web page, may choose UI elements 46 and associate those chosen UI elements 46 with one or more properties of an application component 34 by indicating one or more property paths. (*See, e.g.*, Figures 1-4 and Column 11, lines 3-15). Additionally, Hayton et al. suggests that an application 26 (which includes, e.g., the application components 34), can create or delete properties. (*See, e.g.*, Column 12, lines 44-50). Hence, Hayton et al. is merely directed to a single application (e.g., the server application 26) that has a client UI 42 which can be “customized” with various UI elements 46. Moreover, Applicant submits that Hayton et al. is clearly directed to

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reads on the limitation of claim 11 requiring integrating a new consumer application into a device as if part of an original group of software applications for the device.

a “development” environment, where users can, e.g., “develop” the appearance of a web page or employee salary application. (See, e.g., Figure 4 and 5, Column 9, lines 19-29, and Column 10, lines 55-65).

In contrast to the above-teachings of Hayton et al., various embodiments disclosed in independent claims 1, 18, and 17 of the present application, require adding features to a consumer application, where the feature matches that which a consumer wishes to have. As described above, Hayton et al. merely teaches adding a UI element to the UI 42, not a feature to application 26. (See, e.g., Figure 4 and Column 20, lines 21-64).

With regard to, e.g., claim 1, for example, the feature matching a consumer interest is requested from an application interworking framework. It appears from the Examiner’s assertions that the Examiner is reading, e.g., the property connector API 22 as the claimed application interworking framework. (See, e.g., Column 11, lines 49-52 of Hayton et al. where it is described that upon execution of the property connector API 22, a UI element 46 is mapped to an application component 34). However, nowhere in the portions of Hayton et al. cited by the Examiner, nor anywhere else in Hayton et al., is it taught or even contemplated that any request is made of the property connector API 22. Moreover, claim 1 further requires, e.g., identifying a provider and providing a feature if the provider is identified. Applicant submits that nowhere in Hayton et al. is it described or otherwise suggested that a provider is identified. As noted above, Hayton et al. is directed to modifying, e.g., a UI 42, where the same server process 14/application 26 is always associated with the UI 42. Hence, there is no need for the system and method of Hayton et al. to ever “identify a provider” as required by independent claim 1 of the present application.

In reference to claims 8 and 27, for example, both a consumer application (which, e.g., publishes a feature interest indicating what features a consumer application desires to have) and a provider application that has the feature are required. As described above, Hayton et al. merely teaches a single application, e.g., the server application 26. Therefore, Hayton et al. cannot anticipate both of the claimed consumer application and provider application, because again, Hayton et al. is directed merely to a single application 26 that may have a configurable UI 42.

Additionally, Applicant submits that examples such as the actual data that populates a UI element (such as a field/tab for indicating particular employees) is in no way analogous to adding an actual feature matching a consumer interest to a consumer application. Again, the fields showing “Albert the boss,” “Berth the manager,” etc. are merely indicative of actual data that might be displayed in a UI of an application. For example, Column 22, lines 3-5 of Hayton et al. characterize Figure 5 as merely depicting a “screenshot” of a page already being used in conjunction with an executing application, nothing more. As another example, Column 11, lines 15-19 of Hayton et al. describe that “[T]he UI element 46 can be, for example, an input box for textual or numerical input and display of a value of a property 38.”

Further still, Hayton et al. at Column 20, lines 12-20 clearly teach that, e.g., Figure 4 is an “embodiment of a screenshot 128 produced by the page interface 112 (FIG. 2) (e.g., an HTML editor) that helps a user generate a UI 42’ at build time according to the invention.” (emphasis added). Hayton et al. goes on to describe that a “palette” 134 is provided to show what available “predefined” UI elements 78 may be used for assigning a property path to a UI element. Again, Hayton et al. is clearly directed to, e.g., a development application that allows a developer to customize an application and determine how/what objects will be accessed once the application is already running. Additionally, Hayton et al.’s use of the term “user” is indicative of a developer, not an end user. This is no way reads on the claimed providing of a feature (from a provider identified by consumer/end user interest and feature capability) and utilizing that feature at the consumer application as required in, e.g., independent claims 1, 8, and 17 of the present application. In fact, Applicant submits that because Hayton et al. is directed to application building/development, Hayton et al. merely operates like conventional systems and methods described at, e.g., paragraph [0004] of the present application, where adding features to an application is limited to building an application using a conventional application development system.

As to claim 21 of the present application, for example, storing a user interface element corresponding to the consumer application interest is required. As described above, Hayton et al. does not teach any sort of consumer application interest, only a UI element that a user may be interested in utilizing in the UI 42. Furthermore, the section of Hayton et al. that the Examiner cited to support his position, e.g., Column 16, lines 31-32, does not in any



way anticipate this claimed feature of the present application. That is, Column 16, lines 31-32 merely indicate that values corresponding to application components 34 are stored. In contrast, claim 21 of the present application requires that a user interface element is stored.

Furthermore, and in contrast to the Examiner's assertions at page 5 of the outstanding Office Action that Hayton et al. teaches a consumer application (i.e., UI 42 of the client) and a provider application (i.e., application 26 of the server), Applicant submits that the Examiner is mischaracterizing the system and method of Hayton et al. Figure 1 of Hayton et al. illustrates "an embodiment of a system 10 for communicating changes between a user interface and an executing application, using property paths." (*See, e.g.*, Column 9, lines 65-67 of Hayton et al.). That is, Figure 1 of Hayton et al. is indicative of a UI of an application that may be running remotely from the server providing the application, where any changes to, e.g., the content/data populating different fields/boxes/aspects of the UI can be determined by property paths. In no way does Hayton et al. suggest the existence of two applications, a consumer application and a provider application. The Examiner's interpretation that a UI reads on the claimed consumer application is simply untenable. Nothing in Hayton et al. suggests this interpretation. Rather and again, the UI of Hayton et al. is merely the UI associated with the application hosted by the server. Moreover, Applicant submits that the use of language distinguishing a "UI" from an "application" clearly indicates that Hayton et al. does not consider the UI to be an actual application, let alone a consumer application.

Moreover, claim 21 requires communicating the user interface element to an application interworking framework. However, Hayton et al. does not teach or even contemplate such an operation. As evidenced by the Examiner's assertions at pages 9-10 of the outstanding Office Action, Hayton et al. merely teaches that the "user interface portion of the application can be delivered to the computer user..." and that the server portion 22b transmits to the client portion 22a any change..." As described above, a user of Hayton et al. chooses a UI element and, e.g., associates that UI element with a state of property of an application component. However, communicating that UI element to the property connector API 22 is never taught or suggested. Second, as described above, it appears that the Examiner has interpreted the property connector API 22 of Hayton et al. as allegedly reading on the claimed application interworking framework. Given this interpretation, the operation

involving “the server portion 22b transmits to the client portion 22a” would be analogous to the property connector API 22 communicating with itself because the server portion 22b and client portion 22a are both a part of the property connector API 22, and hence do nothing to support the Examiner’s assertions. (*See, e.g.*, Column 11, lines 23-30 of Hayton et al.)

At page 4 of the outstanding Office Action, the Examiner additionally asserted that Hayton et al. teaches matching a consumer interest with a feature and requesting that feature from an application interworking framework, where a provider, if identified, provides the feature. The Examiner supported his position by asserting that such features are evidenced by a teaching in Hayton et al. that a property state is monitored and when a change is detected, receiving a property change event. The Examiner further asserted that, e.g., Hayton et al.’s teaching of initiating execution of an API upon execution of an application/requests delivery of a page, as well as receiving a startup argument including the name of a file containing the details of a UI page is further evidence in support of his position.

Applicant emphatically disagrees with the Examiner’s continued misinterpretation and mischaracterization of Hayton et al. First, Applicant again submits that the entirety of the Examiner’s alleged support is described in the context of a developer developing a webpage using, e.g., predetermined elements. Second, the monitoring of a property state and the receipt of a property change event merely refer to the ability of the system and method of Hayton et al. to configure properties/objects/data that might populate fields or boxes in an application using property paths that are not static. (*See, e.g.*, Column 11, line 24-Column 12, line 39 of Hayton et al.) That is, applications are not tied to operating only in a “client” mode or a “server” mode, but can provide the effect of direct interaction via a UI even though the application is potentially running remotely. (*See, e.g.*, Column 1, line 40-Column 2, line 9, Column 2, lines 44-59, Column 3, lines 3-40 of Hayton et al.) These features of Hayton et al. have no relationship whatsoever with the limitations/features recited in independent claims 1, 8, 17, and 21 of the present application as they are merely related to determining how/where actual data that might populate, e.g., a web page, is gathered and delivered to the web page for display.

Even if one of the server portion 22b or the client portion 22a could be interpreted as being analogous to the claimed application interworking framework, Hayton et al. still fails to read on claim 21 of the present application. That is, Column 18, lines 57-60 of Hayton et al., from which the description “the server portion 22b transmits to the client portion 22a any change...” is quoted teaches that change events associated with property paths are communicated. Additionally, Column 18, lines 60-65 describe that in association with the server portion 22b transmitting change event information to the client portion 22a, the UI elements are notified. Therefore, Applicant again submits that if the change information transferred between the server portion 22b and client portion 22a is being utilized to, e.g., notify the UI elements, it cannot be the UI elements that are being communicated. In contrast, claim 21 requires that a user interface element is communicated to an application interworking framework.

Furthermore, at pages 5-6 of the outstanding Office Action, the Examiner maintained that Hayton et al. allegedly teaches:

(1) storing a user interface element corresponding to an application interworking framework (2) communicating the user interface element to an application interworking framework (emphasis added).

First, Applicant submits that the Examiner has failed to properly consider the limitations of claim 21. That is, referring to the Examiner’s characterization of the first limitation at issue, the Examiner indicated that the user interface element corresponds to an application interworking framework. However, in actuality, claim 21 of the present application recites “store user interface element corresponding to the consumer application interest resource in a file.”

Second, Applicant submits that a teaching in Hayton et al. indicating that upon execution, a property browser can obtain instantaneous values of available application components, properties and relationship, in no way reads on the claimed storage of a user interface element corresponding to a consumer application interest resource in a file, nor to communicating the user interface element to an application interworking framework. Again, all that Hayton et al. is suggesting at, e.g., Column 16, lines 23-33, is that the UI can obtain

the “values” of objects which are to, e.g., populate fields in the UI/web page instance. In no way does Hayton et al. teach any sort of storing a user interface element as recited in claim 21 corresponding to a consumer application interest resource in a file, and communicating that user interface element to an application interworking framework.

Third, Applicant submits that the Examiner’s remaining assertions fail to support the Examiner’s assertions that Hayton et al. teaches each and every limitation recited in independent claims 1, 8, 17, and 21 of the present application for at least the same reasons above. That is, the Examiner’s assertions are based upon a clear mischaracterization of Hayton et al. described above. Therefore, the Examiner’s alleged support for his position(s) found in Hayton et al. do not actually read on the claimed limitations of independent claims 1, 8, 17, and 21 of the present application.

Applicant further submits that the Examiner has mischaracterized the teachings of Hayton et al. with respect to dependent claims 2, 3, 5-7, 9-16, 18-20, 22, and 23 of the present application. For example and with respect to, e.g., dependent claims 2, 12, and 18, the Examiner asserted that the claimed limitation of “using generic parameter in application interworking framework application programming interfaces (API)” is taught by Hayton et al. at Figure 1 and Column 11, lines 50-52. However, as noted by the Examiner at page 10 of the outstanding Office Action, Column 11, lines 50-52 merely teach, e.g., that the “API 22 maps each dynamic user-interface element 46 to a property 38 of an application component 34 using the associated property path.” Applicant still cannot find or deduce where or what element of the quoted language of Hayton et al. is being interpreted as referring to generic parameters in application interworking framework application APIs. Therefore, Applicant respectfully requests that if the Examiner wishes to maintain this rejection, that he explain/point out with specificity, how the teachings of Hayton et al. are being interpreted to allegedly read on the claimed limitations of, e.g., claims 2, 12, and 18 of the present application.

At page 7 of the outstanding Office Action, the Examiner asserted that the associated property path taught by Hayton et al. could be “interpreted” to be a generic parameter and thus, allegedly teaching mapping each dynamic user interface. Again, Applicant submits that

the property path of Hayton et al. is utilized for directing an application as to where/how to receive, e.g., object data or values, that are to populate a web page UI, for example, and in no way teaches or suggests the use of generic parameters. As already described above, these property paths are paths to particular information/values/data, and therefore cannot merely be generic parameters. Even if the Examiner's intent was to suggest that the "syntax" of a property path was somehow generic and that the actual property path itself could be dynamically changed, again, the property path is applicable merely to data/values that would populate a UI element, such as a text box.

With regard to, e.g., claim 11, the Examiner asserted that the claimed limitation "wherein the new consumer application integrates into the device as if part of an original group of software applications for the device" is allegedly read on by Hayton et al. at Column 10, lines 66-67. Column 10, lines 66-67 of Hayton et al., as quoted by the Examiner merely states that "[t]he client process 18 produces a user-interface ('UI') 42 that is displayed to a user." Applicant submits that producing a UI that is displayed to a user suggests nothing even remotely associated with integrating a new consumer application as if part of an original group of software applications as required by, e.g., claim 11 of the present application. First, and as described above, Hayton et al. fails to teach the integration of any new consumer application. Rather, Hayton et al. is directed to implementing UI elements in a UI 42. Second, the fact that a UI 42 is displayed indicates nothing regarding how a new application is integrated into an original group of applications as if it were an original part thereof. There is simply no language or implicit indication in Hayton et al. that suggests such a feature.

In response to the above arguments made by Applicant in the April 24, 2008 Reply regarding claim 11, the Examiner asserted that

Every application stored in a device is considered as integrated into the device because it is part of the device. In this case, UI 41 is part of the device and therefore it must be integrated into the device with other software applications of the device.

Again, Applicant submits that Hayton et al. fails to teach more than a single application which in the case of Hayton et al. is stored/hosted on a server that is possibly remotely located from a client. Furthermore, there is no teaching or suggestion in Hayton et

al. that any other application, let alone a new consumer application, is ever integrated into the application stored/hosted on the server. All that Hayton et al. describes is, e.g., allowing a developer to develop some type of UI for an end user, where data/values can be transmitted to a server application and displayed on a UI hosted on a client device.

Further still, Applicant submits that the Examiner's reasoning in no way suggest that a new consumer application is integrated in to device as if part of an original group. As repeatedly argued by Applicant in previous responses, claim 11, for example, is directed to an embodiment where a new consumer application can be added to a device. The new consumer application will, e.g., appear and/or operate, as if it was originally a part of the device, for example, when the device was initially provided by an end user/configured, developed, etc. Applicant again directs the Examiner to paragraphs [0003]-[0004] of the present application where it is described that certain prior art that the present application seeks to improve upon includes, e.g., devices such as phones. When new features/applications are added to such devices, the new features/applications do not look/act like those features/applications originally provided by the phone manufacturer.

Additionally, Applicant submits that because dependent claims 2, 3, 5-7, 9-16, 18-20, 22, and 23 are dependent upon independent claims 1, 8, 17, and 21 of the present application, Hayton et al. fails to teach all of the required limitations recited in the dependent claims for at least the same reasons as discussed above with regard to, e.g., claims 1, 8, 17, and 21.

Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Hayton et al. in view of International Patent Application No. WO 00/58855 (Gudmunson).

With regard to claim 4, the Examiner correctly recognized that Hayton et al. does not teach the use of dynamic link libraries. However, the Examiner asserted that Gudmunson cures this deficiency. Applicant submits that because Gudmunson was applied by the Examiner solely for purpose of evidencing the use of DLLs, Gudmunson cannot cure the deficiencies of Hayton et al. described above. Therefore, because claim 4 depends from independent claim 1 of the present application, Applicant submits that the alleged combination of Hayton et al. and Gudmunson still fail to teach all of the required limitations of claim 4 for at least the same reasons as discussed above.

Because none of the references cited by the Examiner, either separately or in combination with each other, teach all of the required limitations of independent claims 1, 8, 17, and 21 of the present application, Applicant submits that each of these independent claims are patentable over this prior art. Furthermore, because dependent claims 2-7, 9-16, 18-20, 22, and 23 are each directly or indirectly dependent upon independent claims 1, 8, 17, and 21, Applicant submits that each of these claims are allowable for at least the same reasons as discussed above.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date: October 20, 2008

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